

(2001) 11 GAU CK 0004

In the Gauhati High Court

Case No : W.A. No. 450 of 2001 and W.P. (C) No. 1063 of 2000

Tilottama Mahanta

APPELLANT

Vs

A.S.E.B and Others

RESPONDENT

Date of Decision : 26-11-2001

Acts Referred:

Citation : (2001) 3 GLT 537

Hon'ble Judges : R.S. Mongia, C.J;R. Gogoi, J

Bench : Division Bench

Advocate : S.C. Biswas, K. Bhattacharjee, P. Biswas, R. Begum and J.C. Barman, for the Appellant; N.D. Sarma, for the Respondent

Judgement

1. Heard Mr. S.C. Biswas, learned Counsel for the Appellant and Mr. H. Roy, learned Standing counsel for ASEB.

2. Appellant's husband died because of alleged electrocution. The case of the writ Petitioner (now Appellant) was that her husband died because of the negligence of the Assam State Electricity Board (for short the ASEB) to keep the electricity supply and the equipments in order. The writ Petitioner (Appellant) claimed compensation on account of the alleged negligence on the part of the ASEB. The learned Single Judge was of the view that in a writ petition, without any evidence, a finding cannot be recorded qua the alleged negligence of the ASEB and it is only the Civil Court which can go into such disputed question of fact. For this, reliance was placed on a Division Bench judgment of this Court in Assam The Assam State Electricity Board, Guwahati and Others Vs. Sanjoy Agarwala, However, on difficulty being shown by the writ Petitioner (Appellant) that she had no means to pursue her remedy before the Civil Court, the learned Single Judge granted an interim compensation of Rs. 15,000/- to the writ Petitioner to pursue her remedy before the Civil Court, which was to be adjusted towards the compensation which may ultimately be awarded to the writ Petitioner by the Civil Court. Dissatisfied with the aforesaid judgment and order of the learned Single Judge, the writ Petitioner (Appellant) has filed the present

appeal.

3. Mr. H. Roy, learned Counsel for the Respondents submitted that there is nothing wrong with the view expressed by the learned Single Judge, which is based on the view expressed by the Division Bench in the aforesaid reported judgment. However, he submitted that on purely humanitarian grounds as a gesture of goodwill the ASEB is ready to pay a sum of Rs. 50,000/- to the Appellant, though, in fact, there is no fault on the part of the ASEB. Learned Counsel for the Respondents submitted that this offer is being made keeping in view the family circumstances of the deceased, who had left behind his widow and three minor children. He further stated that this may not be cited as a precedent.

4. We appreciate the stance of the learned Counsel for the Respondents. This gesture on humanitarian ground, will not only help the Appellant in distress, but would also avoid any further litigation.

5. In view of the above stance of the counsel for the Respondents, we dispose of this writ appeal with the direction to the Respondents to pay a total sum of Rs. 50,000/-including Rs. 15,000/- given by the learned Single Judge, Let this payment be made by a crossed cheque or crossed bank draft drawn in favour of the Appellant within a period of three months. However, this may not be cited as a precedent.

6. The learned Counsel for the Appellant stated that on such payment being made to the Appellant, the matter would stand settled between the parties.

7. The order of the learned Single Judge stands modified to the aforesaid extent. The writ appeal stands disposed of.